IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

Crl.MC.No. 280 of 2006()

(CRIME NO. 812/05 TIRUR POLICE STATION)

PETITIONER:

K.SATHEESH KUMAR, S/O.GOVINDAN,
AGED 53 YEARS, BUSINESS,
ANCHOR ELECTRONIC & ELECTRICALS LTD.,
MARINE COMPLEX, TOWN HALL ROAD, THALASSERY,
THALASSERY TALUK, KANNUR DISTRICT.

BY ADV. SRI.R.SURENDRAN

RESPONDENTS: STATE & DE-FACTO COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. K.MOHAMMED, MANAGING PARTNER,
M.M.ENTERPRISES, KUTTISON'S, KUTTISONS'S BUILDINGS
THALAKKADATHUR, TIRUR-3, MALAPPURAM DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.GIKKU JACOB
R2 BY ADV. SRI.S.RAJEEV

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl. M.C.No. 280 of 2006

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Dated this the 8th day of January, 2007

O R D E R

The petitioner faces allegations under Section 420 I.P.C. Proceedings have been initiated against him on the basis of a private complaint, copy of which is produced as Annex.A filed by the respondent herein. In that complaint, it is alleged that the petitioner is the Managing Director of Gemini Associates and that the Sales Executive of the establishment had obtained cheque leaves from the petitioner, encashed two of them, but failed to furnish good to the second respondent. It is contended that the petitioner is guilty of the offence of cheating punishable under Section 420 I.P.C. The complaint was referred to the police. Investigation is in progress. It is at that stage that the petitioner has come to this court under Section 482 Cr.P.C. to quash the F.I.R. and the consequent investigation.

2. The learned counsel for the petitioner submits that the cheques were even allegedly handed over as early as in November, 2003 and were encashed in January 2004. The complaint has been

filed long later in October, 2005. It is, in these circumstances, submitted that the criminal proceedings have been initiated solely with the intention of vexing and harassing the petitioner.

3. The investigation is in progress. It cannot be said that the allegations do not constitute any offence at all. At any rate, I have no reason to assume that a proper and correct investigation shall not be conducted and the police shall not attempt to ascertain the truth in respect of the allegations. Interim directions have already been issued in favour of the petitioner to secure the interests of justice. I am satisfied that this Crl.M.C. can be disposed of subject to appropriate directions, which shall ensure the interests of the petitioner. Appropriate directions under Section 438 Cr.P.C. can be issued in favour of the petitioner to ensure that he is not subjected to unnecessary vexation and harassment.

4. This Crl.M.C. is accordingly dismissed. But it is directed that the petitioner shall be at liberty to surrender before the learned Magistrate on 15.1.2007. He shall be released on condition that he executes a bond for Rs.25,000/- with two solvent sureties each for the like sum. He shall make himself available for interrogation before the Investigating Officer as and

when directed by the Investigating Officer in writing to do so. The Investigating Officer shall complete the investigation as expeditiously as possible and file the final report before the learned Magistrate.

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(R. BASANT)
Judge

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